

Appl. No. 10/541,688
Response Dated September 4, 2007
Reply to Office Action of June 1, 2007

••• R E M A R K S •••

The Official Action of June 1, 2007 has been thoroughly studied. Accordingly, the changes presented herein for the application, considered together with the following remarks, are believed to be sufficient to place the application into condition for allowance.

By the present amendment, independent claim 1 has been changed to recite that the EPDM composition comprises 100 parts by weight of a peroxide-crosslinkable EPDM, 10 to 150 parts by weight of a filler which consists of carbon black and 1 to 8 parts by weight of an organic peroxide.

Support for these limitations can be found in the paragraph bridging pages 1 and 2 of applicants' original specification.

Entry of the changes to claim 1 is respectfully requested

On page 2 of the Office Action the Examiner has objected to the drawings. Under this objection the Examiner states that the figure contains foreign language characters.

Applicants' note that the Examiner seems to be looking at the figure of the published international application. In reviewing the file wrapper history on the PAIR system, it is noted that the "Drawings" that are listed as the 6th item from the top on 07-05-2005 is applicants' Fig. 1 without foreign language characters.

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The Examiner is requested to use Fig. 1 which is in the file wrapper history and listed as the 6th item from the top on the filing date of 07-05-2005.

Claims 1-17 are pending in this application.

Claims 1-17 stand rejected under 35 U.S.C. §102(b) as being anticipated by or, in the alternative, under 35 U.S.C. §103(a) as being obvious over Japanese reference No. 2001-002864 to Shingo.

For the reasons set forth below, it is submitted that each of the pending claims are patentable over Shingo and therefore, the outstanding rejection of the claims should properly be withdrawn.

Favorable reconsideration by the Examiner is earnestly solicited.

The Examiner has relied upon Shingo as teaching:

...an EPDM composition that contains an EPDM copolymer, organic peroxide, paraffinic process oil and a filler such as carbon black, silica, metal oxides or antioxidants. Examples 1-3 illustrate a composition having 100 parts of EPDM material with a Mooney viscosity of 28 at 100 deg. C, 80 parts of carbon black, 15 parts of a "paraffin series oil" and 3.5 parts of dicumyl peroxide. (pg. 2, para. 0014).

The present application and Shingo are commonly assigned. Accordingly, applicants are familiar with the teachings of Shingo.

Shingo discloses an EPDM composition that comprises peroxide crosslinkable EPDM, paraffinic process oil and an ester-based plasticizer. The EPDM composition further includes 0.5 to 10 parts by weight of organic peroxide, more than 15 parts by weight in total of the paraffinic process oil and the ester-based plasticizer (with the ester-based plasticizer being not more than 10 parts by

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weight itself). In addition to these essential ingredients, Shingo teaches the use of fillers such as carbon black and silica.

Applicants' independent claim 1, as amended herein, is limited to the use of carbon black.

As demonstrated in applicants' working examples, when carbon black is used as a filler, the resulting seal molding material shows excellent electrolytic solution durability.

In contrast, when silica is used as a filler material (as shown in applicants' Example 7), the resulting seal molding material exhibits poor electrolytic solution durability.

Shingo discloses carbon black and silica as being equally suitable filler materials for producing an EPDM composition that has excellent low temperature characteristics and moldability.

However, Shingo fails to teach, recognize or render obvious the specific selection of carbon black as a filler material (to the exclusion of silica) for seal molding materials that are used for cell electrolytic solutions which seal molding materials have excellent electrolytic solution durability.

Accordingly, one skilled in the art reading Shingo would not have found it obvious to use carbon black as the exclusive filler material in an EPDM composition that is used at an electrode site of a nickel-hydrogen cell that contains an electrolytic solution.

In this regard, Shingo is completely silent as to the use of the disclosed EPDM compositions for use as seal molding materials in contact with electrolytic solutions.

Based upon the above distinctions between the prior art relied upon by the Examiner and the present invention, and the overall teachings of prior art, properly considered as a whole, it is

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respectfully submitted that the Examiner cannot rely upon the prior art as required under 35 U.S.C. §102 as anticipating applicants' claimed invention.

It is, therefore, submitted that any reliance upon prior art would be improper inasmuch as the prior art does not remotely anticipate, teach, suggest or render obvious the present invention.

It is submitted that the claims, as now amended, and the discussion contained herein clearly show that the claimed invention is novel and neither anticipated nor obvious over the teachings of the prior art and the outstanding rejection of the claims should hence be withdrawn.

Therefore, reconsideration and withdrawal of the outstanding rejection of the claims and an early allowance of the claims is believed to be in order.

It is believed that the above represents a complete response to the Official Action and reconsideration is requested.

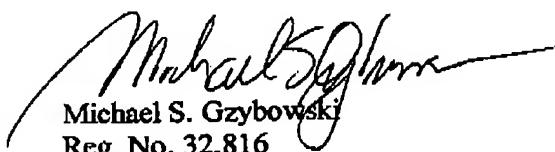
If upon consideration of the above, the Examiner should feel that there remain outstanding issues in the present application that could be resolved; the Examiner is invited to contact applicants' patent counsel at the telephone number given below to discuss such issues.

To the extent necessary, a petition for an extension of time under 37 CFR §1.136 is hereby made. Please charge the fees due in connection with the filing of this paper, including extension of

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time fees, to Deposit Account No. 12-2136 and please credit any excess fees to such deposit account.

Respectfully submitted,



Michael S. Gzybowski
Reg. No. 32,816

BUTZEL LONG
350 South Main Street
Suite 300
Ann Arbor, Michigan 48104
(734) 995-3110

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